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GUM v. GUM.

Nov. 15, 1917.

[94 S. E. 177.]

1. Divorce (§ 255*)—Decree—Collateral Attack—Presumption.—If for the court in a divorce suit to make decree, under Code 1904, § 2263, concerning the estate of the parties, it be necessary for the right of either in the property of the other to be put in issue by the pleadings, it will, on collateral attack of the decree, be presumed this was done.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 748.]

2. Divorce (§ 251*)—Decree—Settling Property Rights—Statute.—Code 1904, § 2263, providing that the court in granting divorce may make such further decree as it deems expedient concerning the estate and the maintenance of the parties or either of them, is intended to confer right to settle the future rights each in the property of the other, and so to extinguish the contingent right by dower, though that is not technically an estate.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 748, 749.]

3. Divorce (§ 255*)—From Bed and Board—Property Rights—Statute.—While a divorce from bed and board does not affect the property rights of the parties, if the decree is silent thereon, Code 1904, § 2263, authorizing a decree as to property rights, expressly includes such a divorce.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 751.]

4. Divorce (§ 255*)—Decree—Collateral Attack—Discretion.—Whether the discretion, under Code 1904, § 2263, was properly exercised in a decree of divorce extinguishing rights of each party in the property of the other, cannot be questioned on collateral attack.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 748, 749.]

5. Rights (§ 251*)—Decree—Property Rights.—Provision in divorce decree, in terms extinguishing the marital rights of each party in and to any property owned by the other, excludes wife's right to claim dower, or interest in personal property, on husband's death.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 748, 749.]

Appeal from Circuit Court, Highland County.

Suit by Mary Etta Gum against one Gum for dower and a distributive share of personal estate. From an adverse decree, complainant appeals. Affirmed.

Curry & Curry, of Staunton, *John M. Colaw*, of Monterey, and *J. H. May*, of Staunton, for appellant.

Timberlake & Nelson, of Staunton, *Edwin B. Jones*, of Monterey, and *L. Travis White*, of Staunton, for appellee.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.